

House File 394 - Reprinted

HOUSE FILE 394
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 117)

(As Amended and Passed by the House March 24, 2015)

A BILL FOR

1 An Act providing for the regulation of transportation network
2 companies.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **321N.1 Purpose.**

2 The purpose of this chapter is to ensure the safety,
3 reliability, and cost-effectiveness of transportation network
4 company services within this state and to preserve and enhance
5 access to this important transportation option for residents
6 and visitors to the state.

7 Sec. 2. NEW SECTION. **321N.2 Definitions.**

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. *"Transportation network company" or "company"* means an
11 entity operating in this state that uses a digital network
12 or software application service to connect passengers to
13 transportation network company drivers providing transportation
14 network company services. A transportation network company
15 is not deemed to own, control, operate, or manage the motor
16 vehicles used by transportation network company drivers.
17 *"Transportation network company"* does not include an entity that
18 provides nonemergency medical transportation brokerage services
19 under contract, directly or indirectly, with this state.

20 2. *"Transportation network company driver" or "driver"* means
21 a person who operates a motor vehicle that is owned, leased,
22 or otherwise authorized for use by the person to provide
23 transportation network company services.

24 3. *"Transportation network company services" or "services"*
25 means transportation of a passenger between points chosen by
26 the passenger and prearranged with a transportation network
27 company driver through the use of a digital network or software
28 application service maintained by a transportation network
29 company. *"Transportation network company services"* begin when
30 a transportation network company driver accepts a request for
31 transportation from a passenger sent through a digital network
32 or software application service maintained by a transportation
33 network company, continue during the time period in which the
34 transportation network company driver transports the passenger
35 in a motor vehicle, and end when the passenger exits the motor

1 vehicle.

2 Sec. 3. NEW SECTION. **321N.3 Other carriers — exclusion.**

3 A transportation network company, a transportation
4 network company driver, or a motor vehicle used to provide
5 transportation network company services is not a motor carrier
6 as defined in section 325A.1, private carrier as defined in
7 section 325A.1, charter carrier as defined in section 325A.12,
8 common carrier, or taxicab service.

9 Sec. 4. NEW SECTION. **321N.4 Agent.**

10 A transportation network company shall maintain an agent in
11 this state for service of process.

12 Sec. 5. NEW SECTION. **321N.5 Identification of vehicles and**
13 **drivers.**

14 Before a passenger enters the motor vehicle of a
15 transportation network company driver, the company shall
16 disclose all of the following information to the passenger on
17 the company's internet site or within the company's software
18 application service:

19 1. A picture that prominently displays the face of the
20 driver.

21 2. The make, model, and registration plate number of the
22 motor vehicle operated by the driver.

23 Sec. 6. NEW SECTION. **321N.6 Fare for services.**

24 A transportation network company may charge a fare for the
25 services provided to a passenger if the company discloses all
26 of the following information to the passenger on the company's
27 internet site or within the company's software application
28 service:

29 1. The calculation method for the fare.

30 2. The applicable rates and fees to be charged to the
31 passenger.

32 3. The option for the passenger to receive an estimated
33 fare before the passenger enters a motor vehicle operated by a
34 transportation network company driver.

35 Sec. 7. NEW SECTION. **321N.7 Electronic receipt.**

1 Within a reasonable period of time following the completion
2 of services provided to a passenger, the transportation network
3 company shall transmit an electronic receipt to the passenger
4 containing all of the following information:

- 5 1. The origin and destination of the trip.
- 6 2. The total time and distance of the trip.
- 7 3. An itemized account of the total fare paid by the
8 passenger, if any.

9 Sec. 8. NEW SECTION. **321N.8 Insurance requirements.**

10 1. *a.* For the period of time in which a transportation
11 network company driver is logged on to a transportation
12 network company's digital network or software application
13 service and is available to receive requests for transportation
14 from passengers, but is not providing transportation network
15 company services, the company shall maintain primary financial
16 liability coverage in the amount of fifty thousand dollars
17 because of bodily injury to or death of one person in any one
18 accident, and, subject to the limit for one person, the amount
19 of one hundred thousand dollars because of bodily injury to
20 or death of two or more persons in any one accident, and the
21 amount of fifteen thousand dollars because of injury to or
22 destruction of property of others in any one accident, and
23 shall maintain uninsured motorist coverage and underinsured
24 motorist coverage in the amounts required under section 516A.1.

25 *b.* The financial liability coverage required by paragraph
26 "a" shall cover the transportation network company driver in the
27 event that the driver's financial liability coverage does not
28 provide coverage to the driver during the period of time stated
29 in paragraph "a", or does not provide coverage in the amounts
30 required by paragraph "a".

31 2. *a.* For the period of time in which a transportation
32 network company driver is providing transportation network
33 company services, the transportation network company or the
34 driver shall maintain primary financial liability coverage in
35 the amount of one million dollars for death, bodily injury,

1 and property damage in any one accident, and shall maintain
2 uninsured motorist coverage and underinsured motorist coverage
3 in the amount of one hundred thousand dollars per accident.

4 *b.* The financial liability coverage shall explicitly
5 recognize that the coverage applies to a driver providing
6 transportation network company services.

7 3. Nothing in this section shall prevent a transportation
8 network company driver from obtaining additional financial
9 liability coverage in excess of the coverage required under
10 this section. If a driver maintains such excess financial
11 liability coverage, any claim arising from the periods of
12 time stated in subsections 1 and 2 shall be covered first by
13 the primary underlying automobile insurance policy up to the
14 policy's limits, and then covered by the excess financial
15 liability coverage maintained by the driver according to the
16 excess policy's terms.

17 4. Financial liability coverage required by this section
18 shall be issued by an eligible insurer authorized to do
19 business in this state by the commissioner of insurance.

20 5. *a.* An insurer authorized to do business in this state
21 shall disclose, in a prominent place on the policy, whether or
22 not the policy provides coverage for a motor vehicle while the
23 vehicle is being used to provide transportation network company
24 services.

25 *b.* An insurer authorized to do business in this state
26 may exclude coverage, including but not limited to liability
27 coverage for bodily injury or property damage, uninsured and
28 underinsured motorist coverage, medical payments coverage,
29 comprehensive physical damage coverage, or collision physical
30 damage coverage, for claims resulting from, or arising out of,
31 the insured motor vehicle being used to provide transportation
32 network company services, provided such exclusion is explicitly
33 set forth in the motor vehicle liability policy, and the
34 insurer or its agent discloses the language of the exclusion
35 in writing to the insured during the application process for

1 the policy.

2 *c.* If such an exclusion is explicitly set forth in the motor
3 vehicle liability policy, the insurer shall not have a duty to
4 indemnify or defend the insured against claims resulting from,
5 or arising out of, use of the insured motor vehicle to provide
6 transportation network company services, provided the insurer
7 complies with chapter 507B.

8 6. During a claims investigation, a transportation network
9 company and its insurer shall cooperate with the parties to the
10 claim to facilitate the exchange of information, including but
11 not limited to the time periods in which the driver was logged
12 on to the company's digital network or software application
13 service in the twenty-four-hour period immediately preceding
14 the accident, and the terms, conditions, and exclusions of
15 the applicable financial liability coverage maintained by the
16 company.

17 7. If a transportation network company's insurer makes a
18 payment for a claim covered under comprehensive or collision
19 physical damage coverage, the transportation network company
20 shall cause its insurer to issue the payment directly to the
21 business repairing the insured vehicle or jointly to the owner
22 of the vehicle and the primary lienholder on the vehicle.

23 Sec. 9. NEW SECTION. 321N.9 **Disclosure requirements.**

24 1. A transportation network company shall disclose all of
25 the following information to a transportation network company
26 driver in writing before the driver may accept a request from a
27 passenger for transportation network company services:

28 *a.* The amounts and terms of financial liability coverage
29 provided by the company to the driver while the driver operates
30 a motor vehicle in connection with the company's digital
31 network or software application service.

32 *b.* That the driver's personal motor vehicle liability policy
33 may not provide coverage when the driver operates a motor
34 vehicle in connection with the company's digital network or
35 software application service.

1 Sec. 10. NEW SECTION. 321N.10 Drug and alcohol use
2 prohibited.

3 1. A transportation network company shall adopt a policy
4 prohibiting the use of drugs or alcohol by a transportation
5 network company driver while the driver is providing services
6 or is logged on to the company's digital network or software
7 application service and available to receive requests for
8 transportation from potential passengers. The company shall
9 display this policy on its internet site. The policy shall
10 include a procedure by which a passenger can submit a complaint
11 against a driver with whom the passenger was matched by
12 the company if the passenger reasonably suspects the driver
13 was under the influence of drugs or alcohol while providing
14 services to the passenger.

15 2. Upon receipt of a passenger complaint alleging a
16 violation of the drug and alcohol policy, the company shall
17 immediately suspend the driver's access to the company's
18 digital network or software application service and shall
19 conduct an investigation into the reported incident. The
20 suspension shall last for the duration of the investigation.

21 3. A transportation network company shall maintain all
22 records relevant to a complaint received pursuant to this
23 section for at least two years from the date the passenger
24 complaint was received by the company.

25 Sec. 11. NEW SECTION. 321N.11 Driver requirements.

26 1. Prior to permitting a person to act as a transportation
27 network company driver on a transportation network company's
28 digital network or software application service, the company
29 shall do all of the following:

30 a. Require the person to submit an application to the
31 company, including the person's address and age, and including
32 copies of the person's driver's license, driving history, motor
33 vehicle registration, proof of financial liability coverage,
34 and any other information required by the company.

35 b. Conduct, or instruct a third party to conduct, a local

1 and national criminal background check, including a report from
2 a national commercial criminal record database with validation,
3 and a report from the national sex offender registry database.

4 *c.* Obtain and review a driving history research report on
5 the person.

6 *d.* Advise the person to inform the insurer of the person's
7 personal motor vehicle that the person intends to act as a
8 transportation network company driver. The advisement shall be
9 presented to the person by the company in a conspicuous manner
10 separate from any other advisements, terms, or conditions
11 presented to the person. The company shall obtain affirmation
12 from the person that the person received the advisement
13 required by this paragraph.

14 2. A transportation network company shall not permit a
15 person to act as a driver on the company's digital network or
16 software application service if any of the following apply:

17 *a.* The person has had more than three moving violations in
18 the prior three-year period.

19 *b.* The person has been convicted in the prior three-year
20 period of violating section 321.218, 321.277, 321.279, or
21 321J.21, or of any other moving violation punishable by more
22 than a scheduled fine.

23 *c.* The person has been convicted in the prior seven-year
24 period of violating section 321J.2 or 321J.2A, or any crime
25 involving fraud, a sexual offense, use of a motor vehicle to
26 commit a felony, property damage, theft, an act of violence, or
27 an act of terror.

28 *d.* The person is registered on the national sex offender
29 registry database.

30 *e.* The person does not possess a valid driver's license.

31 *f.* The person does not possess proof of a valid registration
32 for the motor vehicle used to provide transportation network
33 company services.

34 *g.* The person does not possess proof of financial liability
35 coverage for the motor vehicle used to provide transportation

1 network company services.

2 *h.* The person is not at least nineteen years of age.

3 Sec. 12. NEW SECTION. 321N.11A Motor vehicle safety
4 inspection required.

5 1. A transportation network company or a third party
6 shall perform an initial safety inspection on each motor
7 vehicle prior to approving the vehicle for use to provide
8 transportation network company services. A safety inspection
9 shall be performed on an annual basis thereafter for a motor
10 vehicle to continue to provide transportation network company
11 services. The safety inspection shall include inspection of
12 all of the following components and such components shall be
13 in good working order:

14 *a.* Foot brakes.

15 *b.* Parking or emergency brakes.

16 *c.* Steering mechanism.

17 *d.* Windshield.

18 *e.* Rear window and other glass.

19 *f.* Windshield wipers.

20 *g.* Headlights.

21 *h.* Tail lights.

22 *i.* Turn indicator lights.

23 *j.* Brake lights.

24 *k.* Front seat adjustment mechanism.

25 *l.* The opening, closing, and locking capability of doors.

26 *m.* Horn.

27 *n.* Speedometer.

28 *o.* Bumpers.

29 *p.* Muffler and exhaust system.

30 *q.* Tire conditions, including tread depth.

31 *r.* Interior and exterior rear-view mirrors.

32 *s.* Safety belts for driver and passengers.

33 2. A transportation network company driver shall maintain
34 proof of the most current inspection in the driver's vehicle.
35 A transportation network company shall maintain complete

1 documentation of such inspections for at least the period that
2 the current inspection remains valid.

3 Sec. 13. NEW SECTION. **321N.12 Street hails prohibited.**

4 A transportation network company driver shall not solicit or
5 accept passengers hailing the driver from the street.

6 Sec. 14. NEW SECTION. **321N.13 Cash payments prohibited.**

7 A transportation network company shall adopt a policy
8 prohibiting the solicitation or acceptance of cash payments
9 from passengers and shall notify drivers of the policy.
10 A driver shall not solicit or accept cash payments from
11 passengers. Any payment for services shall be made
12 electronically using the company's digital network or software
13 application service.

14 Sec. 15. NEW SECTION. **321N.14 Records.**

15 A transportation network company shall maintain the records
16 of each instance of services provided to a passenger for at
17 least one year from the date the services were provided. A
18 company shall maintain the records of each of its drivers for
19 at least one year from the date a driver's activation on the
20 company's digital network or software application service has
21 ended.

22 Sec. 16. NEW SECTION. **321N.15 Disclosure of personal**
23 **information.**

24 1. A transportation network company shall not disclose
25 a passenger's personal information to a third party unless
26 the passenger consents to the disclosure, the disclosure is
27 required by law, the disclosure is required to protect or
28 defend the terms of use of the company's services, or the
29 disclosure is required to investigate a violation of the terms
30 of use. For purposes of this section, "*personal information*"
31 includes but is not limited to the passenger's name, home
32 address, telephone number, and payment information.

33 2. Notwithstanding subsection 1, a transportation network
34 company may disclose a passenger's name and telephone number
35 to the driver providing services to the passenger in order to

1 facilitate the identification of the passenger by the driver,
 2 or to facilitate communication between the passenger and the
 3 driver.

4 Sec. 17. NEW SECTION. 321N.16 Prohibition of regulation by
 5 political subdivisions.

6 Transportation network companies and drivers are governed
 7 exclusively by this chapter. A political subdivision of the
 8 state shall not enact an ordinance regulating the activities or
 9 operations of a transportation network company or driver when
 10 such activities or operations are otherwise lawful under the
 11 laws of this state. An ordinance existing on or after July
 12 1, 2015, that regulates transportation network companies or
 13 drivers in violation of this section is void. A county, city,
 14 or other municipality of this state shall not impose a tax on,
 15 or require a license for, a transportation network company,
 16 driver, or a vehicle operated by a driver where such tax or
 17 license relates to providing transportation network company
 18 services, or subject a transportation network company or driver
 19 to any local rate, entry, or operational requirements, or any
 20 other requirements.

21 Sec. 18. Section 321.1, subsection 8, Code 2015, is amended
 22 by adding the following new paragraph:

23 NEW PARAGRAPH. *j.* A transportation network company driver,
 24 as defined in section 321N.2, is not a chauffeur.

25 Sec. 19. Section 325A.1, subsections 6, 7, and 13, Code
 26 2015, are amended to read as follows:

27 6. "*Motor carrier*" means a person defined in subsection 8,
 28 9, or 10 but does not include a transportation network company
 29 or a transportation network company driver, as defined in
 30 section 321N.2.

31 7. "*Motor carrier certificate*" means a certificate issued
 32 by the department to any person transporting passengers on any
 33 highway of this state for hire, other than a transportation
 34 network company or a transportation network company driver, as
 35 defined in section 321N.2. This certificate is transferable.

1 13. *"Private carrier"* means a person who provides
2 transportation of property or passengers by motor vehicle,
3 is not a for-hire motor carrier or a transportation network
4 company or a transportation network company driver, as defined
5 in section 321N.2, or who transports commodities of which the
6 person is the owner, lessee, or bailee and the transportation
7 is a furtherance of the person's primary business or
8 occupation.

9 Sec. 20. Section 325A.11, Code 2015, is amended to read as
10 follows:

11 **325A.11 Passenger transportation.**

12 In addition to the requirements of subchapter 1, motor
13 carriers of passengers and charter carriers shall comply with
14 the requirements of this subchapter. A transportation network
15 company or a transportation network company driver, as defined
16 in section 321N.2, need not comply with the requirements of
17 subchapter 1 or 2.

18 Sec. 21. Section 325A.12, subsection 3, Code 2015, is
19 amended by adding the following new paragraph:

20 NEW PARAGRAPH. *e.* A transportation network company or a
21 transportation network company driver, as defined in section
22 321N.2.

23 Sec. 22. Section 327D.1, Code 2015, is amended to read as
24 follows:

25 **327D.1 Applicability of chapter.**

26 This chapter applies to intrastate transportation by
27 for-hire common carriers of persons and property. However,
28 this chapter does not apply to regular route motor carriers
29 of passengers or charter carriers, as defined under
30 section 325A.12, or a transportation network company or a
31 transportation network company driver, as defined in section
32 321N.2.